

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 73751

Judy Gail Nall
Kary Donald Lewis

831 Chesaco Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on June 2, 2010 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1, 428, 431, 415A, failure to cease the storage of unlicensed motor vehicles, failure to cease the storage of a commercial vehicle (tow truck), failure to cease the storage of multiple recreational vehicles (boats) on residential property zoned DR 5.5 known as 831 Chesaco Avenue, 21237.

On May 11, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jason Seidelman issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$6,000.00 (six thousand dollars).

The following persons appeared for the Hearing and testified: Kary Lewis, Respondent with stepson, Mark Paul and, Jason Seidelman, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on March 5, 2010 for removal of tow truck, removal of untagged/inoperative motor vehicles, and removal of second boat from outside storage. This Citation was issued on May 11, 2010.

B. Inspector Jason Seidelman testified that his inspections found untagged vehicles, two large boats stored outside where only one boat is allowed, and a tow truck being parked on residential property. He testified that re-inspection on June 1, 2010 found the violations had not been corrected. Photographs in the file show two boats on trailers in the driveway. One recreational trailer and boat can be stored outside in certain locations on a residential lot, but parking a second boat violates zoning regulations. BCZR Section 415A.1. Photographs in the file show cars without license plates. County zoning regulations prohibit the outside storage of inoperative motor vehicles on a residential lot. BCZR Section 428.1(A). The outside storage of unlicensed motor vehicles is also prohibited, except for one vehicle per dwelling unit for a period not exceeding 15 days in any calendar year. Section 428.1(B). Respondents have exceeded this limitation. Respondents must put valid tags on the vehicles and make them operable, or remove them from the property. The tow truck cannot be parked on this residential property. A commercial vehicle exceeding 10,000 pounds gross vehicle weight or gross combination weight may not be parked on a residential lot for a period exceeding the time essential to the immediate use of the vehicle. BCZR Section 431.1.

C. Inspector Seidelman further testified that there are substantial tax liens against the property, partly from civil penalties imposed in 2008 for code violations. He further testified that the property was sent to tax sale but did not sell at tax sale.

D. Mark Paul testified that he is the stepson of property owner and Respondent Kary Lewis. The co-owner is Mr. Paul's former girlfriend, who was living in the house and controlling the property when civil penalties were imposed in 2008. Mr. Paul testified that in 2008 he was prohibited by an ex parte order from visiting the property and was therefore unable to correct the prior violations. Regarding the current violations, Mr. Paul testified that he has tags for the untagged vehicles and will put them on. He testified that he will move one of the boats this week and that he has a place he can park the tow truck off the property. Respondent Lewis testified that he had heart bypass surgery four

weeks ago and has been unable to correct violations. He is in the process of refinancing his mortgage and selling the house to his stepson, Mr. Paul. Respondent Lewis requested abatement of the prior penalties and liens.

E. Review of the file shows that a \$10,000 (ten thousand dollars) civil penalty was imposed by Final Order dated November 26, 2008 after Respondents failed to appear for the Hearing on a Citation for untagged/inoperative motor vehicles, improper storage of garbage, failure to remove shipping container and failure to comply with prior Final Orders. That Final Order contained no factual findings and simply imposed the full penalty proposed on the Citation. A civil penalty of \$1,000.00 (one thousand dollars) was imposed by Final Order dated September 25, 2008 for outside storage of a racecar with the wheels removed and scattered debris. A civil penalty of \$5,000.00 (five thousand dollars) was imposed by Final Order dated May 20, 2008 after Respondents failed to correct all violations (removing shipping container, not storing unlicensed vehicles outside, proper storage of garbage); the file does not specify which violation(s) were not corrected within the time provided to obtain suspension of the penalty.

F. It is clear that there have been ongoing and repeated code violations at this property. Untagged vehicles and improperly parked commercial and recreational vehicles, and trash and debris, have been a consistent problem. However, the civil penalties imposed during 2008 were excessive. This Final Order will enforce the current Citation and give Respondents the opportunity to obtain a reduced civil penalty by correcting remaining violations, and will also rescind some of the prior penalties. If Respondents do not correct the violations within the time provided below, the County will be authorized to remove illegally parked vehicles at Respondents' expense. Respondents are also advised that additional or continued violations will be subject to immediate Citation without prior Correction Notice, pursuant to departmental policy.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$1,000.00 (one thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$200.00 (two hundred dollars) if the violations are corrected by July 1, 2010.

IT IS FURTHER ORDERED that after July 1, 2010, the County may enter the property to remove untagged or inoperative motor vehicles and to remove illegally parked recreational or commercial vehicles, at the property owner's expense.

IT IS FURTHER ORDERED that the civil penalty of \$10,000 (ten thousand dollars) that was imposed by Final Order dated November 26, 2008 is RESCINDED and reduced to zero dollars.

IT IS FURTHER ORDERED that the civil penalty of \$5,000 (five thousand dollars) that was imposed by Final Order dated May 20, 2008 is REDUCED to \$1,000 (one thousand dollars).

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 14th day of June 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.